

AN ACT concerning safety.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Carnival and Amusement Rides Safety Act is amended by changing Sections 2-1, 2-2, 2-3, 2-10, 2-15, 2-17, and 2-20 as follows:

(430 ILCS 85/2-1) (from Ch. 111 1/2, par. 4051)

Sec. 2-1. This Article shall be known and may be cited as the "Amusement Ride and Attraction Safety Act" ~~"Carnival and Amusement Rides Safety Act"~~.

(Source: P.A. 83-1240.)

(430 ILCS 85/2-2) (from Ch. 111 1/2, par. 4052)

Sec. 2-2. Definitions. As used in this Act, unless the context otherwise requires:

1. "Director" means the Director of Labor or his or her designee.

2. "Department" means Department of Labor.

3. "Amusement attraction" means an enclosed building or structure, including electrical equipment which is an integral part of the building or structure, through which people walk without the aid of any moving device, that provides amusement, thrills or excitement at a fair, ~~or~~ carnival, or an amusement

enterprise, except any such enclosed building or structure which is subject to the jurisdiction of a local building code.

4. "Amusement ride" means:

(a) any mechanized device or combination of devices, including electrical equipment which is an integral part of the device or devices, which carries passengers along, around, or over a fixed or restricted course for the primary purpose of giving its passengers amusement, pleasure, thrills, or excitement;

(b) any ski lift, rope tow, or other device used to transport snow skiers;

(c) (blank);

(d) any dry slide over 20 feet in height, alpine slide, or toboggan slide;

(e) any tram, open car, or combination of open cars or wagons pulled by a tractor or other motorized device which is not licensed by the Secretary of State, which may, but does not necessarily follow a fixed or restricted course, and is used primarily for the purpose of giving its passengers amusement, pleasure, thrills or excitement, and for which an individual fee is charged or a donation accepted with the exception of hayrack rides;

(f) any bungee cord or similar elastic device; or

(g) any inflatable attraction.

5. "Carnival" or "amusement enterprise" means an enterprise which offers amusement or entertainment to the

public by means of one or more amusement attractions or amusement rides.

6. "Fair" means an enterprise principally devoted to the exhibition of products of agriculture or industry in connection with which amusement rides or amusement attractions are operated.

7. "Operator" means a person, or the agent of a person, who owns or controls or has the duty to control the operation of an amusement ride or an amusement attraction at a carnival, amusement enterprise, or fair. "Operator" includes an agency of the State or any of its political subdivisions.

8. "Carnival worker" or "amusement enterprise worker" means a person who is employed (and is therefore not a volunteer) by a carnival, amusement enterprise, or fair to manage, physically operate, or assist in the operation of an amusement ride or amusement attraction when it is open to the public.

9. "Volunteer" means a person who operates or assists in the operation of an amusement ride or amusement attraction for an owner or operator without pay or lodging. An individual shall not be considered a volunteer if the individual is otherwise employed by the same owner or operator to perform the same type of service as those for which the individual proposes to volunteer.

10. "Inflatable attraction" means an amusement ride or device designed for use that may include, but not be limited

to, bounce, climb, slide, or interactive play, which is made of flexible fabric, is kept inflated by continuous air flow by one or more blowers, and relies upon air pressure to maintain its shape.

(Source: P.A. 98-541, eff. 8-23-13.)

(430 ILCS 85/2-3) (from Ch. 111 1/2, par. 4053)

Sec. 2-3. There is hereby created the Amusement Ride and Attraction Safety Board ~~Carnival Amusement Safety Board~~, hereafter in this Act referred to as the "Board", to consist of 9 members. One member shall be the Director. Eight members shall be appointed by the Governor with the advice and consent of the Senate. The term of members shall be 4 years. Of the 8 appointed members of the Board, 2 shall be operators of amusement rides, 1 shall be a registered professional engineer, 1 shall represent the insurance industry, and 4 shall represent the general public. The Board shall advise the Department on carnival, amusement enterprise, and amusement safety matters.

(Source: P.A. 97-737, eff. 7-3-12.)

(430 ILCS 85/2-10) (from Ch. 111 1/2, par. 4060)

Sec. 2-10. No amusement ride or amusement attraction shall be operated at a carnival, amusement enterprise, or fair in this State without a permit having been issued by the Director to an operator of such equipment. At least 30 days prior to the first day of operation or the expiration of the permit, any

person required to obtain a permit by this Act shall apply to the Director for a permit on a form furnished by the Director which form shall contain such information as the Director may require. The Director may waive the requirement that an application for a permit must be filed at least 30 days prior to the first day of operation or the expiration of the permit if the applicant gives satisfactory proof to the Director that he could not reasonably comply with the date requirement and if the applicant immediately applies for a permit after the need for a permit is first determined. For the purpose of determining if an amusement ride or amusement attraction is in safe operating condition and will provide protection to the public using such amusement ride or amusement attraction, each amusement ride or amusement attraction shall be inspected by the Director before it is initially placed in operation in this State, and shall thereafter be inspected at least once each year.

If, after inspection, an amusement ride or amusement attraction is found to comply with the rules adopted under this Act, the Director shall issue a permit for the operation of the amusement ride or amusement attraction. The permit shall be issued conditioned upon the payment of the permit fee and any applicable inspection fee at the time the application for permit to operate is filed with the Department and may be suspended as provided in the Department's rules.

If, after inspection, additions or alterations are

contemplated which change a structure, mechanism, classification or capacity, the operator shall notify the Director of his intentions in writing and provide any plans or diagrams requested by the Director.

(Source: P.A. 96-151, eff. 8-7-09.)

(430 ILCS 85/2-15) (from Ch. 111 1/2, par. 4065)

Sec. 2-15. Penalties.

(a) Criminal penalties.

1. Any person who operates an amusement ride or amusement attraction at a carnival, amusement enterprise, or fair without having obtained a permit from the Department or who violates any order or rule issued by the Department under this Act is guilty of a Class A misdemeanor. Each day shall constitute a separate and distinct offense.

2. Any person who interferes with, impedes, or obstructs in any manner the Director or any authorized representative of the Department in the performance of their duties under this Act is guilty of a Class A misdemeanor.

(b) Civil penalties. Unless otherwise provided in this Act, any person who operates an amusement ride or amusement attraction without having obtained a permit from the Department in violation of this Act is subject to a civil penalty not to exceed \$2,500 per violation for a first violation and not to

exceed \$5,000 for a second or subsequent violation.

Prior to any determination, or the imposition of any civil penalty, under this subsection (b), the Department shall notify the operator in writing of the alleged violation. The Department shall afford the operator 10 working days after the date of the notice to request a hearing. Upon written request of the operator, the Department shall schedule a formal administrative hearing in compliance with Article 10 of the Illinois Administrative Procedure Act and the Department's rules of procedure in administrative hearings, except that formal discovery, such as production requests, interrogatories, requests to admit, and depositions shall not be allowed. The parties shall exchange documents and witness lists prior to hearing and may request third party subpoenas to be issued. The final determination by the Department of Labor shall be rendered within 5 working days after the conclusion of the hearing. Final determinations made under this Section are subject to the provisions of the Administrative Review Law. In determining the amount of a penalty, the Director may consider the appropriateness of the penalty to the person or entity charged, upon determination of the gravity of the violation. The penalties, when finally determined, may be recovered in a civil action brought by the Director of Labor in any circuit court. In this litigation, the Director of Labor shall be represented by the Attorney General.

(Source: P.A. 98-541, eff. 8-23-13; revised 11-15-13.)

(430 ILCS 85/2-17) (from Ch. 111 1/2, par. 4067)

Sec. 2-17. A municipality within its corporate limits and a county within unincorporated areas within its boundaries may inspect, license or regulate any amusement ride or amusement attraction operated at a carnival, amusement enterprise, or fair, provided that any safety standards or regulations implemented by a municipality or county in connection therewith shall be at least as stringent as those provided for in this Act and the rules and regulations adopted hereunder. Any municipality or county which inspects, licenses, or otherwise regulates amusement rides or amusement attractions may impose reasonable fees to cover the costs thereof.

(Source: P.A. 83-1240.)

(430 ILCS 85/2-20)

Sec. 2-20. Employment of carnival and amusement enterprise workers.

(a) Beginning on January 1, 2008, no person, firm, corporation, or other entity that owns or operates a carnival, amusement enterprise, or fair shall employ a carnival or amusement enterprise worker who (i) has been convicted of any offense set forth in Article 11 of the Criminal Code of 1961 or the Criminal Code of 2012, (ii) is a registered sex offender, as defined in the Sex Offender Registration Act, or (iii) has ever been convicted of any offense set forth in Article 9 of

the Criminal Code of 1961 or the Criminal Code of 2012.

(b) A person, firm, corporation, or other entity that owns or operates a carnival, amusement enterprise, or fair must conduct a criminal history records check and perform a check of the National Sex Offender Public Registry for carnival or amusement enterprise workers at the time they are hired, and annually thereafter except if they are in the continued employ of the entity.

The criminal history records check performed under this subsection (b) shall be performed by the Illinois State Police, another State or federal law enforcement agency, or a business belonging to the National Association of Professional Background Check Screeners. Any criminal history checks performed by the Illinois State Police shall be pursuant to the Illinois Uniform Conviction Information Act.

Individuals who are under the age of 17 are exempt from the criminal history records check requirements set forth in this subsection (b).

(c) Any person, firm, corporation, or other entity that owns or operates a carnival, amusement enterprise, or fair must have a substance abuse policy in place for its workers, which shall include random drug testing of carnival or amusement enterprise workers.

(d) Any person, firm, corporation, or other entity that owns or operates a carnival, amusement enterprise, or fair that violates the provisions of subsection (a) of this Section or

fails to conduct a criminal history records check or a sex offender registry check for carnival or amusement enterprise workers in its employ, as required by subsection (b) of this Section, shall be assessed a civil penalty in an amount not to exceed \$1,000 for a first offense, not to exceed \$5,000 for a second offense, and not to exceed \$15,000 for a third or subsequent offense. The collection of these penalties shall be enforced in a civil action brought by the Attorney General on behalf of the Department.

(e) A carnival, amusement enterprise, or fair owner is not responsible for:

(1) any personal information submitted by a carnival or amusement enterprise worker for criminal history records check purposes; or

(2) any information provided by a third party for a criminal history records check or a sex offender registry check.

(f) Recordkeeping requirements. Any person, firm, corporation, or other entity that owns or operates a carnival, amusement enterprise, or fair subject to the provisions of this Act shall make, preserve, and make available to the Department, upon its request, all records that are required by this Act, including but not limited to a written substance abuse policy, evidence of the required criminal history records check and sex offender registry check, and any other information the Director may deem necessary and appropriate for enforcement of this Act.

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(g) A carnival, amusement enterprise, or fair owner shall not be liable to any employee in carrying out the requirements of this Section.

(Source: P.A. 96-151, eff. 8-7-09; 97-1150, eff. 1-25-13.)